IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24219 of 2004

Between:

E. Narayana Reddy S/o Bala Venkata Reddy
R/o Chinnasinganapalli Village, Duvvur Mandal, Kadapa District

..... PETITIONER

AND

1 The Joint Collector, Kadapa District at Kadapa
2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District
3 The mandal Revenue Officer Duvvur Mandal, Kadapa District
4 Smt.G. Jayalakshmi Joint Collector Kadapa District at Kadapa
5 Sri G. Venkatesam Revenue Divisional Officer Jammalamadugu,

Kadapa District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned ref B/750/2004, dt 17-7-2004 suspending the authorization of the Petitioner without conducting any enquiry or notice and further action of the 1st respondent in rejecting the appeal filed by the petitioner vide proceedings L.Dis.No. I(3)/3175/2004 dt 10-11-2004 as highly illegal, arbitrary and violative of Art 14 and 21 of the Constitution of India and consequently set a side the same and pass such other order or orders in the interest of justice.

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondent No. 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is a fair price shop dealer of Chinnasinganapalli village, Duvvur mandal, Kadapa district. His authorization was suspended by the second respondent through proceedings dated 17.07.2004, on certain allegations. Aggrieved thereby, the petitioner approached this Court by filing W.P.No.14951 of 2004. The writ petition was disposed of on 28.09.2004 leaving it open to the petitioner to avail the remedy of appeal. Accordingly, the petitioner preferred an appeal before the first respondent. Through his order dated 10.11.2004, the first respondent disposed of the appeal directing the second respondent to pass orders in the proceedings initiated against the petitioner within four weeks. The petitioner feels aggrieved by the same.

Learned counsel for the petitioner submits that the charges levelled against the petitioner are general and vague in nature and there was no justification for the second respondent in suspending his authorization. He also contends that the first respondent did not apply his mind to the facts of the case and except stating that the appeal is disposed of, he did not record any finding. It is also his contention that the second respondent did not take any steps to dispose of the proceedings before him for the last five months, and in view of the Judgment of this Court in *Joint Collector, Kurnool v. A. Neelima*, suspension beyond 90 days cannot be sustained.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the first respondent did not intend to interfere with the order of suspension,

which is a temporary measure and instead, had directed the second respondent to dispose of the main proceedings and no exception can be taken to the same.

Earlier, when the petitioner approached this Court, aggrieved by the order of suspension, the writ petition was disposed of leaving it open to him to avail the remedy of appeal. Accordingly, the petitioner preferred an appeal under Clause 20 of the A.P. Public Distribution System Control Order, 2001. The appeal was disposed of by the first respondent through order dated 10.11.2004. A reading of the same discloses that the first respondent was not clear as to whether he was dealing with the application for stay or the appeal. He directed the second respondent to dispose of the matter within four weeks.

A Division Bench of this Court, in the case referred to above held that suspension of dealership for an indefinite period, cannot be sustained. It was held that in the ordinary course of things, an order of suspension of authorization cannot be continued beyond 90 days.

In the present case, the second respondent has chosen to suspend the authorization of the petitioner within one day from the date of receipt of the report from the Mandal Revenue Officer. Having suspended the authorization, he just kept the matter aside and has not chosen to pass final orders. Even the filing of a writ petition by the petitioner and disposal of the appeal by the first respondent did not have any impact upon him. The principle laid down by this Court in the Judgment referred to above squarely gets attracted. The suspension of the authorization of a dealer for such a continuous period, tends to become a penalty. Further, the allegations against the petitioner are not so serious as to warrant the continued suspension for such a long time.

Hence, the writ petition is allowed and the order of suspension dated 17.07.2004 passed against the petitioner is set aside. It is, however, left open to the second respondent to pass orders in the proceedings initiated against the petitioner. There shall be no order as to costs.

27.12.2004

Note:

Issue CC in two days.

(BO)

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To

1 The Joint Collector, Kadapa District at Kadapa
2 The Revenue Divisional Officer, Jammalamadugu, Kadapa District
3 The mandal Revenue Officer Duvvur Mandal, Kadapa District
4 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad (OUT)

5 Two CD copies.